

# State of South Dakota

NINETIETH SESSION  
LEGISLATIVE ASSEMBLY, 2015

663W0077

## SENATE BILL NO. 1

Introduced by: Senators Vehle, Omdahl, Parsley, Tidemann, and White and Representatives Duvall, Anderson, Hunhoff (Jean), Schaefer, Verchio, and Werner at the request of the Interim Committee on Highway Needs and Financing

1 FOR AN ACT ENTITLED, An Act to finance improvements on the public highways and  
2 bridges by establishing or increasing the motor vehicle excise tax, taxes on fuel, motor  
3 vehicle registration fees, and wheel taxes, to provide for the distribution of certain revenue,  
4 and to establish certain state and local planning and reporting requirements concerning the  
5 condition of public highways and bridges.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

7 Section 1. That § 32-5B-1 be amended to read as follows:

8 32-5B-1. In addition to all other license and registration fees for the use of the highways, a  
9 person shall pay an excise tax at the rate of ~~three~~ four percent on the purchase price of any motor  
10 vehicle, as defined by § 32-3-1 or 32-5B-21, purchased or acquired for use on the streets and  
11 highways of this state and required to be registered under the laws of this state. This tax shall  
12 be in lieu of any tax levied by chapters 10-45 and 10-46 on the sales of such vehicles. Failure  
13 to pay the full amount of excise tax is a Class 1 misdemeanor.

14 Section 2. That § 32-5B-1.4 be amended to read as follows:



32-5B-1.4. A licensed motor vehicle dealer who sells new motor vehicles and has a franchise for that particular motor vehicle may license a new motor vehicle which is part of ~~his~~ the dealer's inventory. If the dealer licenses the motor vehicle, ~~he~~ the dealer shall title the motor vehicle and pay the ~~three percent~~ excise tax imposed pursuant to § 32-5B-1 on the manufacturer's suggested dealer list price. The next purchaser ~~shall be~~ is exempt from the excise tax.

Section 3. That § 10-47B-4 be amended to read as follows:

10-47B-4. The fuel excise tax rates for the tax imposed by this chapter are as follows:

- (1) Motor fuel (except ethyl alcohol, methyl alcohol, biodiesel, biodiesel blends, and aviation gasoline)--~~\$.22 per gallon as provided pursuant to section 4 of this Act;~~
- (2) Special fuel (except jet fuel)--~~\$.22 per gallon as provided pursuant to section 4 of this Act;~~
- (3) Aviation gasoline--\$.06 per gallon;
- (4) Jet fuel--\$.04 per gallon;
- (5) Liquid petroleum gas--\$.20 per gallon;
- (6) Compressed natural gas--\$.10 per gallon;
- (7) Ethyl alcohol and methyl alcohol--~~\$.08 per gallon as provided pursuant to section 5 of this Act;~~
- (8) Liquid natural gas--\$.14 per gallon;
- (9) Dyed special fuel--\$.07 per gallon;
- (10) Biodiesel and biodiesel blends--as provided pursuant to section 4 of this Act, except when the conditions as provided in section 6 of this Act are met.

Section 4. That chapter 10-47B be amended by adding thereto a NEW SECTION to read as follows:

The fuel excise tax rate for motor fuel and special fuel is:

- (1) \$.22 per gallon from July 1, 2015, to June 30, 2016, inclusive;
- (2) \$.2255 per gallon from July 1, 2016, to June 30, 2017, inclusive;
- (3) \$.2311 per gallon from July 1, 2017, to June 30, 2018, inclusive;
- (4) \$.2369 per gallon from July 1, 2018, to June 30, 2019, inclusive;
- (5) \$.2428 per gallon from July 1, 2019, to June 30, 2020, inclusive;
- (6) \$.2489 per gallon from July 1, 2020, to June 30, 2021, inclusive;
- (7) \$.2551 per gallon from July 1, 2021, to June 30, 2022, inclusive;
- (8) \$.2615 per gallon from July 1, 2022, to June 30, 2023, inclusive;
- (9) \$.2680 per gallon from July 1, 2023, to June 30, 2024, inclusive;
- (10) \$.2747 per gallon from July 1, 2024, to June 30, 2025, inclusive; and
- (11) \$.2816 per gallon on and after July 1, 2025.

Section 5. That chapter 10-47B be amended by adding thereto a NEW SECTION to read as follows:

The fuel excise tax rate for ethyl alcohol and methyl alcohol fuel is:

- (1) \$.10 per gallon from July 1, 2015, to June 30, 2016, inclusive;
- (2) \$.12 per gallon from July 1, 2016, to June 30, 2017, inclusive;
- (3) \$.14 per gallon from July 1, 2017, to June 30, 2018, inclusive;
- (4) \$.16 per gallon from July 1, 2018, to June 30, 2019, inclusive;
- (5) \$.18 per gallon from July 1, 2019, to June 30, 2020, inclusive;
- (6) \$.20 per gallon from July 1, 2019, to June 30, 2021, inclusive; and
- (7) \$.22 per gallon on and after July 1, 2021.

Section 6. The tax imposed by § 10-47B-4 on biodiesel or biodiesel blends shall be reduced by two cents per gallon in the quarter after biodiesel production facilities in South Dakota reach

1 a name plate capacity of at least twenty million gallons per year and fully produce at least ten  
2 million gallons of biodiesel within one year as determined by the secretary of revenue. The  
3 secretary shall file a certification of the determination with the secretary of state and the  
4 Legislative Research Council as the means of determining the reduction in the rate of tax  
5 applied by § 10-47B-4. The provisions of this section are repealed in the quarter after thirty-five  
6 million gallons of taxed biodiesel and biodiesel blended fuel are sold as determined by the  
7 secretary of revenue. The secretary shall file a certification of the determination with the  
8 secretary of state and the Legislative Research Council as the means of determining the effective  
9 date of the repeal of this section.

10 Section 7. That section 7 of chapter 64 of the 2014 Session Laws, section 12 of chapter 55  
11 of the 2009 Session Laws, and sections 3, 5, and 6 of chapter 54 of the 2008 Session Laws be  
12 repealed.

13 Section 8. That chapter 10-47B be amended by adding thereto a NEW SECTION to read as  
14 follows:

15 In addition to the tax imposed by this chapter at the rates provided pursuant to § 10-47B-4,  
16 an additional tax is imposed at the rate of three percent of the average wholesale price charged  
17 each gallon of fuel, at the time the fuel excise tax is imposed pursuant to this chapter. However,  
18 this additional tax does not apply to any aviation gasoline and jet fuel and does not apply to any  
19 fuel that is otherwise exempted pursuant to this chapter.

20 Section 9. For the purposes of section 8 of this Act, the average wholesale price is two  
21 dollars and fifty cents for the tax returns filed from July 1, 2015, to June 30, 2016, inclusive.

22 Section 10. That chapter 10-47B be amended by adding thereto a NEW SECTION to read  
23 as follows:

24 For the purposes of section 8 of this Act, beginning on July 1, 2016, and each July first

thereafter, the average wholesale price is the average wholesale price of the fuel for the previous calendar year. The average wholesale price shall apply to tax returns from July first to June thirtieth, inclusive.

Section 11. That chapter 10-47B be amended by adding thereto a NEW SECTION to read as follows:

The average wholesale price shall be determined by the secretary and established by rules promulgated pursuant to chapter 1-26. The average wholesale price shall be determined using data available from the Oil Price Information Service. The average wholesale price shall be a single, statewide average wholesale price per gallon of the type of fuel sold in the state over the previous calendar year, excluding any state and federal excise tax. However, for the purposes of sections 8 and 10 of this Act, the average wholesale price of a gallon of fuel may not be set lower than two dollars and fifty cents.

Section 12. That chapter 10-47B be amended by adding thereto a NEW SECTION to read as follows:

The tax imposed by section 8 of this Act shall be reported and remitted to the state in the same manner as the fuel excise tax is reported and remitted pursuant to this chapter.

Section 13. That § 10-47B-34 be amended to read as follows:

10-47B-34. Any supplier, out-of-state supplier, ethanol producer, or ethanol broker who properly remits tax under this chapter shall be allowed to retain an amount not to exceed two and one-fourth percent of the tax required to be paid on each gallon of fuel to this state. The amount to be retained is to help off-set the administrative expenses of timely reporting and payment of tax. This section does not apply to the tax imposed by section 8 of this Act.

Section 14. That § 34A-13-20 be amended to read as follows:

34A-13-20. A petroleum release compensation and tank inspection fee is imposed upon any

1 petroleum products upon which the fuel excise tax is imposed by §§ 10-47B-5 to 10-47B-10,  
2 inclusive, 10-47B-9.1, and 10-47B-13. None of the exemptions from fuel excise tax allowed in  
3 § 10-47B-19 apply to this fee. The parties required to pay the fuel excise tax ~~under~~ pursuant to  
4 the provisions of §§ 10-47B-21 to 10-47B-26, inclusive, and 10-47B-29 and 10-47B-31 are  
5 liable for payment of the petroleum release and tank inspection fee. In cases where the fuel is  
6 exempt from the fuel excise tax under the provisions of subdivisions 10-47B-19(1), (3), and (5),  
7 the supplier shall pay the fee. Responsibility for payment of the fee ceases if the petroleum  
8 product is sold and delivered by a licensed exporter outside of the state. The amount of the fee  
9 imposed is twenty dollars per one thousand gallons of petroleum. ~~Beginning January 1, 2003,~~  
10 Until June 30, 2020, fifty percent of the revenue collected pursuant to this section shall be  
11 deposited monthly in the ethanol fuel fund ~~and fifty.~~ Beginning on July 1, 2020, fifty percent  
12 of the of the revenue collected pursuant to this section shall be deposited monthly in the state  
13 highway fund. Fifty percent of the revenue collected pursuant to this section shall be distributed  
14 monthly in the following manner:

- 15 (1) ~~Beginning in fiscal year 2000 to December 31, 2002, inclusive, fifty percent shall be~~  
16 ~~deposited in the state capital construction fund created in § 5-27-1. Beginning on~~  
17 ~~January 1, 2003, seventy-eight~~ Seventy-eight and seven-tenths percent shall be  
18 deposited in the state capital construction fund; and
- 19 (2) ~~Beginning April 1, 2002, to December 31, 2002, inclusive, twenty-nine and one-tenth~~  
20 ~~percent shall be deposited in the petroleum release compensation fund and twenty~~  
21 ~~and nine-tenths percent shall be deposited in the state highway fund. Beginning on~~  
22 ~~January 1, 2003, twenty-one~~ Twenty-one and three-tenths percent shall be deposited  
23 in the petroleum release compensation fund.

24 Section 15. That § 32-5-6 be amended to read as follows:

32-5-6. License fees and compensation on a noncommercial motor vehicle which is an automobile, pickup truck, or van as provided ~~by~~ pursuant to the provisions of § 32-5-5, shall be determined by the manufacturer's shipping weight, including accessories, as follows:

- (1) Two thousand pounds or less, inclusive, ~~thirty~~ thirty-three dollars;
- (2) From 2,001 to 4,000 pounds, inclusive, ~~sixty~~ sixty-six dollars;
- (3) From 4,001 to 6,000 pounds, inclusive, ~~ninety~~ ninety-nine dollars;
- (4) Over 6,000 pounds, one hundred ~~twenty~~ thirty-two dollars.

Section 16. That § 32-5-6.3 be amended to read as follows:

32-5-6.3. License fees on a noncommercial motor vehicle which is not an automobile, pickup truck, or van licensed pursuant to § 32-5-6 shall be determined by the gross weight of the motor vehicle as defined by subdivision 32-9-1(6), and based on the following:

- (1) Eight thousand pounds or less, inclusive, one hundred ten dollars;
- (2) For each additional 2,000 pounds or major fraction thereof from 8,001 to 20,000 pounds, inclusive, ~~ten~~ eleven dollars;
- (3) ~~For a vehicle in excess of 20,000~~ From 20,001 to 54,000 pounds, inclusive, the total license fee shall be ~~sixty~~ sixty-six percent of the total license fee established for commercial vehicles of equivalent weight pursuant to § 32-9-15;
- (4) Over 54,000 pounds, the total license fee shall be one hundred percent of the total license fee established for commercial vehicles of equivalent weight pursuant to § 32-9-15.

It is a Class 2 misdemeanor for a person to operate a motor vehicle licensed pursuant to this section at a gross weight in excess of the gross weight for which it has been licensed. If the owner chooses to lower the registered weight, the plate shall be returned along with any validation decal and a new plate issued with the correct registered weight.

Section 17. That § 32-5-6.1 be amended to read as follows:

32-5-6.1. License fees for any noncommercial motor home shall be determined by the manufacturer's shipping weight, including accessories, as follows:

- (1) Six thousand pounds or less, inclusive, ~~ninety~~ ninety-nine dollars;
- (2) From 6,001 to 8,000 pounds, inclusive, one hundred ~~twenty~~ thirty-two dollars;
- (3) From 8,001 to 10,000 pounds, inclusive, one hundred ~~fifty~~ sixty-five dollars;
- (4) For each additional 2,000 pounds or major fraction thereof, in excess of 10,000 pounds, ~~thirty~~ thirty-three dollars.

For the purposes of this section, a motor home is a vehicle designed to provide temporary living quarters for recreational, camping, or travel use, built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van that is an integral part of the completed vehicle.

Section 18. That § 32-5-8 be amended to read as follows:

32-5-8. License fees and compensation for any recreational vehicle as defined in § 32-3-1 or for any noncommercial trailer and semitrailer, for use of the highways payable ~~under~~ pursuant to § 32-5-5 and pulled by a noncommercial motor vehicle on which the license fees were paid pursuant to § 32-5-6, shall be determined upon the basis of their actual weight as follows:

- (1) One thousand pounds or less, inclusive, ~~fifteen~~ seventeen dollars;
- (2) From 1,001 to 2,000 pounds, inclusive, ~~thirty~~ thirty-three dollars;
- (3) From 2,001 to 3,000 pounds, inclusive, ~~forty-five~~ fifty dollars;
- (4) From 3,001 to 4,000 pounds, inclusive, ~~sixty~~ sixty-six dollars;
- (5) From 4,001 to 5,000 pounds, inclusive, ~~seventy-five~~ eighty-three dollars;
- (6) From 5,001 to 6,000 pounds, inclusive, ~~ninety~~ one hundred dollars;
- (7) From 6,001 to 7,000 pounds, inclusive, one hundred ~~five~~ sixteen dollars;



1 (8) From 7,001 to 8,000 pounds, inclusive, one hundred ~~twenty~~ thirty-two dollars;

2 (9) From 8,001 to 9,000 pounds, inclusive, one hundred ~~thirty-five~~ fifty dollars;

3 (10) From 9,001 to 10,000 pounds, inclusive, one hundred ~~fifty~~ sixty-five dollars;

4 (11) For each additional 1,000 pounds or major fraction thereof, in excess of 10,000  
5 pounds, ~~fifteen~~ seventeen dollars.

6 Any trailer or semitrailer licensed pursuant to this section may be pulled by a  
7 noncommercial motor vehicle licensed pursuant to § 32-5-8.1 or a commercially licensed motor  
8 vehicle if the motor vehicle is registered at a gross weight to cover the weight of the trailer and  
9 its load.

10 Section 19. That § 32-5-9 be amended to read as follows:

11 32-5-9. License fees and compensation for use of the highways payable ~~under~~ pursuant to  
12 § 32-5-5 ~~shall be: fourteen dollars and fifty cents for motorcycles with a~~ shall be determined  
13 by the piston displacement of less than three hundred fifty cubic centimeters and seventeen  
14 dollars for motorcycles with a piston displacement of three hundred fifty cubic centimeters or  
15 more as follows:

16 (1) Three hundred fifty cubic centimeters or less, fifteen dollars;

17 (2) Over three hundred fifty cubic centimeters to one thousand cubic centimeters,  
18 inclusive, eighteen dollars;

19 (3) Over one thousand cubic centimeters, twenty-one dollars.

20 Section 20. That § 32-6B-21 be amended to read as follows:

21 32-6B-21. The department shall issue metal numerical license plates to licensed dealers  
22 upon application and payment of a ~~eighty-four~~ ninety-three dollar yearly fee to be paid at the  
23 time of the annual review date for each set desired. The fees shall be distributed in the manner  
24 specified ~~in~~ pursuant to the provisions of §§ 32-11-2 and 32-11-4.1 to 32-11-9, inclusive. The

1 license plates shall be numbered consecutively and shall bear as a prefix the number 77. The  
2 plates may be issued for a multiple year period. If a dealer's license is revoked or canceled or  
3 the dealer goes out of business the 77 plates shall be returned to the department. If any person  
4 operates a motor vehicle with 77 plates after the dealer license is revoked or canceled or after  
5 the dealer goes out of business, or if the person refuses to return the plates, the person is guilty  
6 of a Class 2 misdemeanor.

7 Section 21. That § 32-6B-23 be amended to read as follows:

8 32-6B-23. The department shall issue to any motorcycle dealer and trailer dealer licensed  
9 pursuant to this chapter metal number plates bearing a prefix of the letter "D" and containing  
10 a distinguishing identification number of the licensee. The dealer shall make application to the  
11 department for the plates and pay a fee of ~~twenty~~ twenty-two dollars for each plate. One license  
12 plate shall be displayed on the rear of any motorcycle, or trailer, semitrailer, or travel trailer,  
13 owned by the dealer while traveling on a public highway. Any vehicle owned by the licensed  
14 dealer and bearing the dealers' metal plate may be operated on the streets and highways of this  
15 state for any purpose, including demonstration by a prospective buyer. All money collected  
16 pursuant to this section shall be distributed in the manner specified ~~in~~ pursuant to the provisions  
17 of § 32-11-2 and §§ 32-11-4.1 to 32-11-9, inclusive.

18 Section 22. That § 32-6B-36.3 be amended to read as follows:

19 32-6B-36.3. The department shall issue metal numerical license plates to an auction agency  
20 upon application and payment of a ~~eighty-four~~ ninety-three dollar yearly fee to be paid at the  
21 time of the annual review date for each set desired. Such fees shall be distributed in the manner  
22 specified ~~in~~ pursuant to the provisions of §§ 32-11-2 and 32-11-4.1 to 32-11-9, inclusive. The  
23 license plates shall be numbered consecutively and shall bear as a prefix the number "99." The  
24 plates may be issued for a multiple year period. If an auction agency's license is revoked or

1 canceled or the auction agency goes out of business, the "99" plates shall be returned to the  
2 department. If any person operates a motor vehicle with "99" plates after the auction agency's  
3 license is revoked or canceled or after the auction agency goes out of business, or if the person  
4 refuses to return the plates, the person is guilty of a Class 2 misdemeanor.

5 Section 23. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 In addition to the license fees paid pursuant to the provisions of this chapter for a motor  
8 vehicle, the owner of an electric vehicle shall pay a fee in the amount of eighty dollars and a  
9 hybrid vehicle shall pay a fee in the amount of forty dollars.

10 For the purposes of this section, the term, electric motor vehicle, means a motor vehicle that  
11 is propelled to a significant extent by an electric motor which draws electricity from a battery  
12 that is capable of being recharged from an external source of electricity and that may be legally  
13 operated on the interstate highways in this state and that is eligible for registration pursuant to  
14 the general laws of this state. The electric vehicle shall have been made by a manufacturer  
15 primarily for use on public streets, roads, and highways and meets National Highway Traffic  
16 Safety Administration standards included in 49 C.F.R. § 571 as of January 1, 2015.

17 For the purposes of this section, the term, hybrid vehicle, means a motor vehicle with a  
18 hybrid propulsion system that uses an alternative fuel by operating on both an alternative fuel,  
19 including electricity, and a traditional fuel and shall also display such motor vehicle's United  
20 States Environmental Protection Agency highway fuel economy rating of fifty miles per gallon  
21 or more.

22 Section 24. That § 32-11-34 be amended to read as follows:

23 32-11-34. The local government highway and bridge fund is hereby created and appropriated  
24 for the use of counties, municipalities, and townships for the purposes of constructing and

maintaining highways, streets, and bridges on their highway and street systems. Beginning on October 1, 2015, before each quarterly disbursement is made pursuant to § 32-11-35, the secretary of revenue shall transfer two million five hundred thousand dollars to the local bridge improvement grant fund created pursuant to section 31 of this Act.

Section 25. That § 32-5A-1 be amended to read as follows:

32-5A-1. Any county may, by ordinance, impose a wheel tax on all motor vehicles, as defined in § 32-3-1, registered in the county at a rate not to exceed four dollars per vehicle wheel. The tax shall be administered and collected by the county. The total vehicle tax may not exceed ~~sixteen~~ forty-eight dollars per vehicle.

Section 26. That § 10-47B-19 be amended to read as follows:

10-47B-19. The following are exempt from fuel excise tax imposed by this chapter:

(1) Motor fuel or undyed special fuel removed from a terminal in this state at the rack by the federal government or defense fuel supply center for consumption in any federal government motor vehicle, machinery, equipment, or aircraft;

(2) Motor fuel or undyed special fuel imported into this state by the federal government or defense fuel supply center for consumption in any federal government motor vehicle, machinery, equipment, or aircraft;

~~(3) Special fuel that has been dyed in accordance with this chapter. The tax liability is reestablished if the dyed special fuel is used in the engine fuel supply tank of self-propelled machinery and equipment for use in highway construction or repair work within the right-of-way within this state;~~

~~(4)~~ Transmix removed from a terminal in this state at the rack by the terminal operator and transferred to another terminal, or to a licensed supplier for refinement and re-introduction into the pipeline system;

(5)(4) Undyed special fuel and dyed special fuel removed from a terminal in this state at the rack and delivered directly into a railroad locomotive if the railroad company is also the supplier. Undyed special fuel and dyed special fuel transported from the terminal to the locomotive fueling site by truck or railcar is not exempt from the tax;

(6)(5) Motor fuel or undyed special fuel removed from a terminal in this state by an electrical power company or cooperative and directly used for the generation of electricity. Motor fuel or undyed diesel fuel transported from the terminal to an electrical generation plant by truck or railcar is not exempt from the tax; or

(7)(6) Motor fuel or special fuel transfers in bulk by pipeline into a terminal or in bulk by pipeline within a terminal. This subdivision does not apply to any transfers of ethyl alcohol or methyl alcohol into a terminal or within a terminal. The subsequent removal of the fuel from the terminal is not exempt from tax.

Section 27. That § 10-47B-20 be amended to read as follows:

10-47B-20. ~~Special fuel exempted under subdivision 10-47B-19(3)~~ Dyed special fuel shall have dye added to it at or before the time of withdrawal at a terminal or refinery rack. At the option of the supplier, the dye added may be either:

(1) Dye required to be added pursuant to United States Environmental Protection Agency requirements; or

(2) Dye with specifications and amounts as required by the Internal Revenue Service.

Section 28. That § 10-47B-148 be amended to read as follows:

10-47B-148. ~~Any~~ Except for the tax on any dyed special fuel, any tax, fee, penalty assessment, and interest assessment collected ~~under~~ pursuant to the provisions of this chapter ~~are to~~ shall be deposited with the state treasurer who shall credit the amount received to the motor fuel tax fund. However, taxes collected ~~under~~ pursuant to the provisions of this chapter

1 on behalf of other jurisdictions under the provisions of an interstate agreement are to be  
2 distributed under the provisions of that agreement.

3 Section 29. That chapter 10-47B be amended by adding thereto a NEW SECTION to read  
4 as follows:

5 There is hereby created in the state treasury the dyed special fuel tax fund. Any tax collected  
6 on dyed special fuel pursuant to the provisions of this chapter shall be deposited with the state  
7 treasurer who shall credit the amount received to the dyed special fuel tax fund. At the  
8 beginning of each month, the secretary shall distribute any balance in the fund to the special  
9 local government bridge fund as created pursuant to section 30 of this Act.

10 Section 30. That chapter 10-47B be amended by adding thereto a NEW SECTION to read  
11 as follows:

12 There is hereby created the special local government bridge fund. Interest earned on money  
13 in the fund shall be deposited into the fund. Any money in the fund is continuously  
14 appropriated. Any money deposited into and distributed from the fund shall be set forth in an  
15 informational budget as described in § 4-7-7.2. The secretary of revenue shall monthly distribute  
16 the money deposited in the fund as follows:

- 17 (1) Thirty percent of the fund to the counties, which shall be used for the maintenance  
18 and reconstruction of bridges and culverts. The counties' portion shall be distributed  
19 among the counties, pro rata, according to the number of bridges, as defined pursuant  
20 to § 31-14-1, on the county and township road systems. No county may receive any  
21 money pursuant the provisions of this subdivision unless the county has adopted and  
22 annually updated its county highway and bridge improvement plan pursuant to the  
23 provisions of section 33 of this Act. Any funds not distributed to a county pursuant  
24 to this requirement shall be transferred to the local bridge improvement grant fund;

1           and

2           (2)    Seventy percent of the fund to the local bridge improvement grant fund created in  
3           section 31 of this Act.

4           Section 31. There is hereby created in the state treasury the local bridge improvement grant  
5   fund. Interest earned on money in the fund shall be deposited into the fund. Any money in the  
6   fund is continuously appropriated to the Department of Transportation to be used as grants  
7   pursuant to the provisions of this section. Any money deposited into and distributed from the  
8   fund shall be set forth in an informational budget as described in § 4-7-7.2.

9           The Transportation Commission may award grants from the fund to any county to construct,  
10   reconstruct, and repair bridges. The Transportation Commission shall consider the need for the  
11   project and funding mechanisms available to and utilized by the applicant when making a  
12   decision to award a grant. No county may receive a grant from the fund unless such county has  
13   adopted and annually updated its county highway and bridge improvement plan pursuant to the  
14   provisions of section 33 of this Act and has imposed a county wheel tax pursuant to § 32-5A-1.

15          Section 32. The Transportation Commission shall promulgate rules, pursuant to chapter  
16   1-26, regarding the application process and timelines, the guidelines and criteria for approval  
17   of applications, and the distribution of funds from the local bridge improvement grant fund. The  
18   criteria for evaluating the projects may include the proximity of other bridges and culverts,  
19   alternative routes available, structural deficiencies, functionality of the bridge or culvert, and  
20   project costs.

21          Section 33. The Transportation Commission shall promulgate rules, pursuant to chapter 1-  
22   26, to establish the requirements for a county highway and bridge improvement plan that details  
23   proposed county highway and bridge improvement projects in a county for the next five years.  
24   The rules shall provide for the format of the plan and the time by which an update of the plan

1 must be submitted each year.

2 Section 34. That chapter 31-2 be amended by adding thereto a NEW SECTION to read as  
3 follows:

4 The Department of Transportation shall establish performance standards designed to  
5 measure the overall condition of the highways and bridges on the state highway system, along  
6 with establishing ten-year goals for maintenance of these conditions. When establishing  
7 appropriate performance standards, the department may include nationally established standards  
8 and measurements required to be reported to the United States Department of Transportation.

9 The department shall, before the fourth Tuesday in January of each year, report to the Senate  
10 and House standing committees on transportation on the current and projected condition of the  
11 highways and bridges on the state trunk highway system. This report shall include progress on  
12 meeting the ten-year goals for condition of the state highway system. If the projections show the  
13 ten-year goals will not be met, the department shall report the estimated amount of additional  
14 funding needed to achieve the goals. If the goals are not currently being met, the department  
15 may not add or build additional miles on the state highway system until such time as the  
16 condition of the existing system meets the established goals. This restriction, however, does not  
17 prevent the department from adding additional lanes or other expansion when necessary in order  
18 to provide for the safety of the existing state highway system.